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Docket Sheet for 4:02-cv-159 USDC North Carolina Eastern District

U.S. District Court
Eastern District of North Carolina (New Bern)

DAN

CIVIL DOCKET FOR CASE #: 02-CV-159

Barnhill, et al v. Davidson, et al
Assigned to: Judge Malcolm J. Howard

Filed: 11/19/02

Demand: \$0,000

Lead Docket: None

Dkt# in other court: None

Nature of Suit: 190

Jurisdiction: US Defendant

Cause: 05:702 Administrative Procedure Act

MARVIN TAYLOR BARNHILL
plaintiff

Philip R. Isley
[COR LD NTC]

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JERRY HAMILL
plaintiff

Philip R. Isley

(See above)

[COR LD NTC]

G. Eugene Boyce

(See above)

[COR LD NTC]

EXHIBIT

tabbies

v.

ROSS J. DAVIDSON, Administrator for Risk Management Agency;
RISK MANAGEMENT AGENCY; UNITED STATES OF AMERICA; ANN M.
VENEMAN, Secretary of Agriculture for The United States of
America; UNITED STATES DEPARTMENT OF AGRICULTURE

defendant

Proceedings include all events

Date Filed	Doc. No.	Image	Description
11/19/2002	1	<u>Yes: 54 Page(s); 2916 KB; PDF</u>	Complaint filed - Class action on behalf of all peanut farmers in NC and VA who are eligible for the Multiple Peril Crop Insurance Policy for crop year 2002. w/attach. cy. to J. Howard. [Date Entered: 12/02/02, By: js]
11/19/2002	--	No	Filing Fee Paid; FILING FEE \$ 150.00 RECEIPT # 104 9744 [Date Entered: 12/02/02, By: js]
11/19/2002	2	<u>Yes: 13 Page(s); 359 KB; PDF</u>	Motion by Marvin Taylor Barnhill, Jerry Hamill, John Branham, Clark Jenkins, Tom Clements, David mni Grant, Tim Phelps, Tommy Flythe, Jim Ferguson, Glen Hawkins, Billy Bain, Glen Moore, R. L. Smith, H. Steven Allen withmemorandum in support for joinder of additional plaintiffs. cy. to J. Howard w/prop. order. [Date Entered: 12/02/02, By: js]
11/20/2002	--	No	Summons(es) issued for Ross Davidson (RMA), Ann Veneman (USDA), Frank Whitney and John Ashcroft. [Date Entered: 12/02/02, By: js]
12/09/2002	3	<u>Yes: 4 Page(s); 94 KB; PDF</u>	Return of service executed as to Frank Whitney 11/21/02 Served by certified mail, return receipt attached. [Date Entered: 12/13/02, By: dh]
12/09/2002	4	<u>Yes: 4 Page(s); 94 KB; PDF</u>	Return of service executed as to Ann M. Veneman 11/25/02 Answer due on 1/25/03 for Ann M. Veneman. Served by certified mail, return receipt attached. [Date Entered: 12/13/02, By: dh]
12/16/2002	5	<u>Yes: 4 Page(s); 91 KB; PDF</u>	Return of service of summons, complaint and motion to join executed as to Ross J. Davidson 11/29/02 by certified mail. Answer due on 1/29/03 for Ross J. Davidson. [Date Entered: 12/17/02, By: ll]
12/16/2002	6	<u>Yes: 5 Page(s); 122 KB; PDF</u>	Return of service of summons, complaint and motion to join executed 11/25/02 as to John Ashcroft by certified mail. [Date Entered: 12/17/02, By: ll]

01/06/2003	7	<u>Yes: 3 Page(s); 117 KB; PDF</u>	Stipulation by Marvin Taylor Barnhill, Jerry Hamill, John Branham, Clark Jenkins, Tom Clements, David mni Grant, Tim Phelps, Tommy Flythe, Jim Ferguson, Glen Hawkins, Billy Bain, Glen Moore, R. L. Smith, H. Steven Allen, Ross J. Davidson, Risk Manage. Agency, USA, Ann M. Veneman, U.S. Dept. of Agric. - as to \$.1775 per pound of insurance coverage for the 2002 Crop Year. Further stipulate that pla. and others similarly situated are entitled to settle any and all insurance claims for the 2002 Crop Year at the rate of \$.1775 per pound without waiving any further claimsto the difference between \$.31 per pound and \$.1775 per pound etc... [Date Entered: 01/09/03, By: dh]
01/09/2003	--	No	Motion(s) submitted: [2-1] motion for joinder of additional plaintiffs submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. [Date Entered: 01/09/03, By: dh]
01/13/2003	8	<u>Yes: 2 Page(s); 47 KB; PDF</u>	Order - the stipulations as set forth in the Stipulation are accepted as fact. It is hereby ORDERED that plaintiff may settle their claims with their insurance carriers under the Multiple Peril Crop Insurance Policy for the 2002 Crop Year based on \$.1775 per pound without waiving their right to claims additional coverage up to and including \$.31 per pound for any loss under the Multiple Peril Crop Insurance Policy for the 2002 Crop Year. ccys served signed by Malcolm J. Howard, US Judge. [Date Entered: 01/13/03, By: dh]
01/16/2003	9	<u>Yes: 7 Page(s); 161 KB; PDF</u>	Answer to Complaint by Ross J. Davidson, Risk Manage. Agency, USA, Ann M. Veneman, U.S. Dept. of Agric., cs. NO JURY DEMAND. [Date Entered: 01/22/03, By: dh]
01/22/2003	10	<u>Yes: 1 Page(s); 35 KB; PDF</u>	Order granting [2-1] motion for joinder of additional plaintiffs. **NOTE**400 plaintiffs to be added to case. Clerks will add plaintiffs to case in intervals of fifty until all plaintiffs are added. ccys served. signed byMalcolm H. Howard, US Judge. [Date Entered: 01/22/03, By: dh]
01/22/2003	--	No	Advised by Mr. Boyce's office he will be filing a second motion to join an additional fifty plaintiffs to the case. [Date Entered: 01/22/03, By: dh]
01/22/2003	11	<u>Yes: 17 Page(s); 378 KB; PDF</u>	Motion by Marvin Taylor Barnhill, Jerry Hamill, John Branham, Clark Jenkins, Tom Clements, David mni Grant, Tim Phelps, Tommy Flythe, Jim Ferguson, Glen Hawkins, Billy Bain, Glen Moore, R. L. Smith, H. Steven Allen for joinderof additional parties, cs. [Date Entered: 01/28/03, By: dh]
01/28/2003	--	No	Motion(s) submitted: [11-1] motion for joinder of additional parties submitted. CASE FILE TO JUDGE HOWARD FOR

			CONSIDERATION. [Date Entered: 01/28/03, By: dh]
02/07/2003	12	<u>Yes: 2 Page(s); 38 KB; PDF</u>	Order granting [11-1] second motion for joinder of additional parties signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 02/07/03, By: dh]
06/05/2003	13	<u>Yes: 32 Page(s); 1227 KB; PDF</u>	Memorandum by Marvin Taylor Barnhill and all other plaintiffs, in support of Plaintiff's Motion for Partial Summary Judgment (filed next day on 6/6/03). w/cs. [Date Entered: 06/13/03, By: ll]
06/06/2003	14	<u>Yes: 3 Page(s); 51 KB; PDF</u>	Motion by Marvin Taylor Barnhill and all other plaintiffs for partial summary judgment. w/cs. (*NOTE: Memorandum in Support of this motion previously filed on 6/5/03) [Date Entered: 06/13/03, By: ll]
06/18/2003	15	<u>Yes: 3 Page(s); 71 KB; PDF</u>	Motion by Marvin Taylor Barnhill, and all other plaintiffs, for class certification; appointment of class representatives and designation of class counsel. w/cs. [Date Entered: 06/25/03, By: ll]
06/18/2003	16	<u>Yes: 13 Page(s); 481 KB; PDF</u>	Memorandum by Marvin Taylor Barnhill, and all other plaintiffs, in support of [15-1] motion for class certification; appointment of class representatives and designation of class counsel. w/cs and attachments. [Date Entered: 06/25/03, By: ll]
06/25/2003	17	<u>Yes: 6 Page(s); 177 KB; PDF</u>	Motion by Ross J. Davidson, Risk Manage. Agency, USA, Ann M. Veneman, U.S. Dept. of Agric. to stay responses to motion for partial summary judgment and motion for class certification. w/cs. [Date Entered: 06/27/03, By: ll]
07/03/2003	18	<u>Yes: 10 Page(s); 347 KB; PDF</u>	Response in Opposition by Marvin Taylor Barnhill (and all other plaintiffs) to [17-1] motion to stay responses to motion for partial summary judgment and motion for class certification. w/cs and attachments. [Date Entered: 07/19/03, By: ll]
07/22/2003	19	<u>Yes: 17 Page(s); 588 KB; PDF</u>	Notice of Filing by Ross J. Davidson, Risk Manage. Agency, USA, Ann M. Veneman, U.S. Dept. of Agric. - In Support of Defendants' Motion to Stay, cs. [Date Entered: 07/25/03, By: dh]
07/29/2003	--	No	Case file to David W. Daniel, Clerk/Magistrated Judge Designee for consideration of {#17-1} motion to stay responses to motion for partial summary judgment and motion for class certification. [Date Entered: 07/29/03, By: dh]
			Motion by Marvin Taylor Barnhill, Jerry Hamill, John Branham, Clark Jenkins, Tom Clements, David mni Grant, Tim Phelps, Tommy Flythe, Jim Ferguson, Glen Hawkins,

12/10/2003	20	<u>Yes: 27 Page(s);</u> <u>1736 KB; PDF</u>	Billy Bain, Glen Moore, R. L. Smith, H. Steven Allen, GP Kittrell & Son, Earley and Taylor, Walter W. Anderson Jr., Paul C. Askew, John K. Askew, David Wayne Aycok, Leon T. Baird, Donald E. Barnes, Bennie C. Barnes, Stanley H. Barnes, Elizabeth Prince Barnes Family, Marvin Taylor Barnhill, Benford L. Barrett, Jerry W. Batten, Michael E. Belch, Milton E. Bennett, Tony R. Bennett, Billy Drewette, Sandra D. Flythe, Estelle Edwards Blanton, Jimmy G. Blythe, Terry C. Boone, Jean J. Boseman, Joel M. Boseman, Wayne Boseman, Mark Boseman, Chris A. Braddy, Timothy R. Braddy, James Arthur Bradley Jr., John W. Branham IV, Clemmon W. Bridgers, Gary B. Bridgers, Sadie V. Bridgers, Keith F. Britt Sr., David W. Britton, Andrew J. Britton, Josiah B. Brown, Thomas E. Brown, Robert T. Brown, Berry Robert Brown, Edward Merriem Brown III, Bobby Joe Browning, Jesse L. Bunch, Lori S. Burgess, Neil B. Burgess, Robert Earl Byrum, Tommy Daniel Byrum Jr., Tommy D. Byrum Sr., James L. Champion, Clark Farms WS, Allen D. Clary, Mike W. Corey, Loumus Council, Charlie Council, Harvey Lee Council, Ben S. Cowin, Bobby E. Crawley, Joy S. Critzer, Jeffrey A. Cumbo, Jack J. Dail Jr., Kelly Mack Davis, Michael A. Davis, Anderson Mack Davis, Joey D. Davis, Hallet S. Davis, Phillip V. Davis, Thomas L. Davis, Grady P. Davis III, Lawrence Dickens, Allen A. Dickens, Aubrey N. Dickens, Edward Lee Dickens, Jacob B. Dickens III, Jacob L. Dickens Jr., Barbara W. Drewett, Conwell S. Duncan, David Dunlow, James R. Earley Sr., Calvin R. Eason, Leonard Wayne Edwards, Patrick B. Edwards, Robert D. Edwards, Rose T. Edwards, Stephen Scott Edwards, Keith Hugh Edwards, Scott Edwards, James S. Eley, Bobby Lee Eubanks, Myrick Farm Partners, Beech Run Farms, Barnes Farms, Futrell Farms, Star Valley Farms, Sumner Farms, Inc., Richard W. Feher, Jim W. Fisher, Bruce Lea Flye, Bryan K. Flythe, M. Thomas Flythe Jr., James Earl Flythe Jr., James Earl Flythe Sr., George K. Francis, William Earl Futrell Jr., Robert P. Gardner Jr., Robert P. Gardner Sr., Raymond P. Garner, RP & EC Garner, Edward C. Garner, Raymond P. Garner Jr., Thomas [Date Entered: 12/17/03, By: dh]
12/10/2003	21	<u>Yes: 15 Page(s);</u> <u>438 KB; PDF</u>	Motion by plaintiffs with memorandum in support to compel discovery, cs. [Date Entered: 12/17/03, By: dh]
12/22/2003	22	<u>Yes: 13 Page(s);</u> <u>424 KB; PDF</u>	Second Motion by plaintiffs for entry of judgment or alternatively, Scheduling Order, cs. [Date Entered: 12/24/03, By: dh]
12/29/2003	23	<u>Yes: 3 Page(s); 72</u> <u>KB; PDF</u>	Response by USA in opposition to [21-1] motion to compel discovery [Date Entered: 01/12/04, By: dh]

12/30/2003	24	Yes: 3 Page(s); 67 KB; PDF	Motion by plaintiffs to amend [1-1] complaint [Date Entered: 01/12/04, By: dh]
12/30/2003	25	Yes: 12 Page(s); 558 KB; PDF	Memorandum in support of [24-1] motion to amend [1-1] complaint to add additional defts. [Date Entered: 01/12/04, By: dh]
01/02/2004	26	Yes: 25 Page(s); 966 KB; PDF	Motion with memorandum in support by defts to dismiss or alternatively for Summary Judgment, cs. w/attachments. [Date Entered: 01/12/04, By: dh]
01/02/2004	27	Yes: 11 Page(s); 419 KB; PDF	Defts. Response in opposition to [15-1] motion for class certification; appointment of class representatives and designation of class counsel [Date Entered: 01/12/04, By: dh]
01/02/2004	28	Yes: 29 Page(s); 1088 KB; PDF	Response in opposition to [22-1] motion for entry of judgment or alternatively, Scheduling Order, [20-1] motion to enter judgment or alternatively schedule a status conference with incorporated Memorandum of Law, [14-1] motion for partial summary judgment, cs. [Date Entered: 01/12/04, By: dh]
01/02/2004	29	Yes: 25 Page(s); 757 KB; PDF	Motion by defts with memorandum in support for protective order, cs. [Date Entered: 01/12/04, By: dh]
01/12/2004	—	No	Motion(s) referred: referred [21-1] motion to compel discovery to USMJ David W. Daniel COPY OF MOTION AND UPDATED DOCKET SHEET TO JUDGE DANIEL FOR CONSIDERATION. [Date Entered: 01/12/04, By: dh]
01/16/2004	30	Yes: 4 Page(s); 83 KB; PDF	Motion by the plaintiffs to extend time to file responses to governments' pleadings and request for status conference. Counsel for the defendant's does not oppose this motion. [Date Entered: 02/02/04, By: dh]
01/30/2004	31	Yes: 31 Page(s); 1145 KB; PDF	Reply by plaintiffs to response to [15-1] motion for class certification; appointment of class representatives and designation of class counsel, cs. w/attachments. [Date Entered: 02/05/04, By: dh]
01/30/2004	32	Yes: 15 Page(s); 553 KB; PDF	Reply by plaintiffs to response to [20-1] motion to enter judgment or alternatively schedule a status conference with incorporated Memorandum of Law, [14-1] motion for partial summary judgment, cs. w/attachments. [Date Entered: 02/05/04, By: dh]
01/30/2004	33	Yes: 25 Page(s); 963 KB; PDF	Response by plaintiffs to [26-1] motion to dismiss or alternatively for Summary Judgment, cs. w/attachments. [Date Entered: 02/05/04, By: dh]
			Motion(s) referred: referred [30-1] motion to extend time to

02/02/2004	--	No	file responses to governments' pleadings and request for status conference to USMJ David W. Daniel. COPY OF MOTION AND UPDATED DOCKET SHEET TO JUDGE DANIEL FOR CONSIDERATION. [Date Entered: 02/02/04, By: dh]
02/09/2004	34	Yes: 1 Page(s); 23 KB; PDF	Order, set status conference before USMJ David W. Daniel for 3:00 2/12/04 in Room 624, Terry Sanford Fed. Bldg., Raleigh, NC signed by David W. Daniel, USMJ. ccys served. Copy to Beck for deputy clerk. Calendar Copy. Telephoned Counsel. [Date Entered: 02/09/04, By: dh]
02/10/2004	--	No	Received telephone call from Eric Goulian advising he is in California this week and requesting a continuance of the Status Conf. set for Thursday, Feb. 12th before Judge Daniel in Raleigh. Deputy Clerk Heath advised Mr. Goulian he would need to file a Motion to Continue and she would get it to Judge Daniel immediately. [Date Entered: 02/10/04, By: dh]
02/10/2004	35	Yes: 2 Page(s); 46 KB; PDF	Motion by deft. to continue hearing scheduled for 2/12/04 at 3:00 p.m., cs. cy to USMJ Daniel. [Date Entered: 02/13/04, By: dh]
02/13/2004	36	Yes: 1 Page(s); 20 KB; PDF	Order granting [35-1] motion to continue hearing scheduled for 2/12/04 at 3:00 p.m. rescheduled status conference before USMJ David W. Daniel for 9:00 2/19/04, 6th floor courtroom, Raleigh signed by David W. Daniel, USMJ. ccys served. Calendar Copy. Copy to Becky. [Date Entered: 02/13/04, By: dh]
02/17/2004	--	No	Motion(s) referred: referred [30-1] motion to extend time to file responses to governments' pleadings and request for status conference to USMJ David W. Daniel, [29-1] motion for protective order, [24-1] motion to amend [1-1] complaint, [21-1] motion to compel discovery, [20-1] motion to enter judgment or alternatively schedule a status conference with incorporated Memorandum of Law, [17-1] motion to stay responses to motion for partial summary judgment and motion for class certification, [15-1] motion for class certification; appointment of class representatives and designation of class counsel. LAST PART OF CASE FILE TO USMJ DANIEL FOR CONSIDERATION. [Date Entered: 02/17/04, By: dh]
02/17/2004	37	Yes: 10 Page(s); 393 KB; PDF	Reply by defendants to response to [26-1] motion to dismiss or alternatively for Summary Judgment, cs. [Date Entered: 02/23/04, By: dh]
			Motion hearing re: [30-1] motion to extend time to file responses to governments' pleadings and request for status

02/19/2004	--	No	conference, [24-1] motion to amend [1-1] complaint, [17-1] motion to stay responses to motion for partial summary judgment and motion for class certification before USMJ David W. Daniel; Courtroom Deputy - Becky Bowen. Court Reporter - Donna Tomawski. Danny Boyce present for Plaintiffs; Eric Goulian for the government; Judge Daniel grants the following motions from the bench: Motion to Extend Time (#30); Motion to amend complaint (#24); Government's motion to stay is MOOT (#17); the Court will defer ruling on other pending motions to Judge Howard (.5 hr) [Date Entered: 02/19/04, By: bb]
02/23/2004	--	No	Will submit motion to dismiss once file is back from Judge Daniel's Chamber. [Date Entered: 02/23/04, By: dh]
02/26/2004	38	<u>Yes: 3 Page(s); 77 KB; PDF</u>	Motion by plaintiffs to transfer for hearing on preliminary matters, cs. cy to USMJ Daniel. [Date Entered: 03/11/04, By: dh]
02/26/2004	39	<u>Yes: 27 Page(s); 1015 KB; PDF</u>	Document filed by plaintiffs titled: Plaintiffs' Supplemental Memorandum Regarding Summary Judgment Issues, cs. w/attachments. [Date Entered: 03/11/04, By: dh]
03/03/2004	40	<u>Yes: 28 Page(s); 759 KB; PDF</u>	Memorandum by plaintiffs in opposition to [29-1] motion for protective order, cs. [Date Entered: 03/11/04, By: dh]
03/16/2004	41	<u>Yes: 18 Page(s); 622 KB; PDF</u>	Document filed titled: Supplemental Memorandum of Points and Authorities Regarding Defendants' Motion to Dismiss for Failure to Exhaust Administrative Remedies, cs. w/attachment. [Date Entered: 03/18/04, By: dh]
04/02/2004	42	<u>Yes: 2 Page(s); 40 KB; PDF</u>	Certificate of service of Plaintiffs' Memo. in Opposition to Gov't's Motion for Proto w/Supporting Memo. [Date Entered: 04/06/04, By: dh]
04/06/2004	--	No	Will submit motion to dismiss once file comes back from Judge Daniel's chamber. [Date Entered: 04/06/04, By: dh]
05/03/2004	43	<u>Yes: 6 Page(s); 110 KB; PDF</u>	Notice of Filing by the defendant's of Administrative Record, cs. w/attached CD in clear plastic binder. [Date Entered: 05/10/04, By: dh]
05/03/2004	44	<u>Yes: 16 Page(s); 675 KB; PDF</u>	Document filed by the defendants titled: Defendant's Supplemental Memorandum Regarding Summary Judgment and Response To Plaintiffs' Supplemental Memorandum. cs. w/attachments marked volume 1 - 3. (Place in grayexpandable folder) [Date Entered: 05/10/04, By: dh]
			Order - This court hereby schedules a hearing on Thursday, May 20, 2004 at 1:00 p.m. in G'ville. The parties should present arguments on the following: Motion hearing before Judge Malcolm J. Howard set for 1:00 5/20/04 for [26-1]

05/07/2004	45	<u>Yes: 1 Page(s); 26 KB; PDF</u>	motion to dismiss or alternatively for Summary Judgment, set for 1:00 5/20/04 for [15-1] motion for class certification; appointment of class representatives and designation of class counsel, set for 1:00 5/20/04 for [14-1] motion for partial summary judgment signed by Malcolm J. Howard, US Judge. ccys served. Calendar Copy. Copy to Becky for CourtReporter. [Date Entered: 05/07/04, By: dh]
05/10/2004	--	No	Case submitted to: Judge Howard [45-1] order Motion hearing before Judge Malcolm J. Howard set for 1:00 5/20/04 for [26-1] motion to dismiss or alternatively for Summary Judgment, set for 1:00 5/20/04 for [15-1] motion for class certification; appointment of class representatives and designation of class counsel, set for 1:00 5/20/04 for [14-1] motion for partial summary judgment submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. [Date Entered: 05/10/04, By: dh]
05/12/2004	45	<u>Yes: 7 Page(s); 201 KB; PDF</u>	Document filed titled: Defendant's Notice of Filing of Order Denying Discovery In Related Case, cs. cy to Judge Howard. [Date Entered: 05/17/04, By: dh]
05/17/2004	46	<u>Yes: 1 Page(s); 21 KB; PDF</u>	Order, Motion hearing before Judge Malcolm J. Howard set for 10:00 5/20/04 for [26-1] motion to dismiss or alternatively for Summary Judgment, set for 10:00 5/20/04 for [15-1] motion for class certification; appointment of class representatives and designation of class counsel, set for 10:00 5/20/04 for [14-1] motion for partial summary judgment signed by Malcolm J. Howard, US Judge. ccys served. Calendar Copy. [Date Entered: 05/17/04, By: dh]
05/20/2004	--	No	Motion hearing held in G'ville before Judge Malcolm J. Howard. Courtroom Deputy - Delsia Heath. Counsel present for plaintiffs - Philip R. Isley, G. Eugene Boyce, R. Daniel Boyce and Bob Sutte, N.C. Peanut Grower's Association. Counsel present for the defendants - Eric Goulian, AUSA. Court calls case. Court notes attys appearances. Opening remarks by counsel. Counsel present arguments. Court will enter written order within two to four weeks. Court does not anticipate any further hearings on the pending motions. Court adjourned at 12:27 p.m. [Date Entered: 05/20/04, By: dh]
06/02/2004	--	No	Transcript Filed - regarding hearing on May 20, 2004 before Judge Howard Court Reporter - Sharon Kroeger [Date Entered: 06/03/04, By: dh]
06/30/2004	--	No	Received letter from R. Daniel Boyce dated June 25, 2004 with attached copies of documents that were sent to MDL. Letter placed on left side of file. [Date Entered: 06/30/04, By: dh]

07/22/2004	47	<u>Yes: 49 Page(s);</u> <u>1710 KB; PDF</u>	Order granting [26-1] motion to dismiss or alternatively for Summary Judgment, granting [15-1] motion for class certification; appointment of class representatives and designation of class counsel, denying [14-1] motion for partial summary judgment. The court hereby orders that this case shall proceed as a class action and hereby certified the following class: (see order for language). The court hereby appoints the following pla's as class representative: Marvin Taylor Barnhill, Jerry Hamill, John Branham, Clark Jenkins, Tom Clements, David Grant, Tim Phelps, and Tommy Flythe. Philip R. Isley, G. Eugene Boyce, and R. Daniel Boyce shall represent the certified class. For lack of subject matter jurisdiction, the court hereby dismisses all plaintiffs who do not have peanut farms in the EDNC, including Jim Ferguson, Glen Hawkins, Billy Bain, Glen Moore, R.L. Smith, H. Steven Allen, and all pla's listed in Exhibit B to pla's motion to join additional pla's filed Nov. 19, 2002. Class representative shall have 15 days from the date of this order to file a proposed notice for class members. signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 07/22/04, By: dh]
07/29/2004	48	<u>Yes: 5 Page(s); 96</u> <u>KB; PDF</u>	Motion by plaintiffs to Transfer Virginia Plaintiffs or Other Plaintiffs to Appropriate Venues. cs [Date Entered: 08/19/04, By: sf]
07/29/2004	49	<u>Yes: 12 Page(s);</u> <u>395 KB; PDF</u>	Memorandum by plaintiffs in support of [48-1] motion to Transfer Virginia Plaintiffs or Other Plaintiffs to Appropriate Venues. cs w/attachments. [Date Entered: 08/19/04, By: sf]
08/05/2004	50	<u>Yes: 21 Page(s);</u> <u>856 KB; PDF</u>	Motion with memorandum in support for reconsideration of [47-1] order cs [Date Entered: 08/19/04, By: sf]
08/16/2004	51	<u>Yes: 6 Page(s);</u> <u>121 KB; PDF</u>	Motion by plaintiffs to extend time to file response to def't's m/reconsideration, cs. cy to clerk w/p.o. [Date Entered: 08/20/04, By: dh]
08/18/2004	52	<u>Yes: 5 Page(s);</u> <u>179 KB; PDF</u>	Response to [48-1] motion to Transfer Virginia Plaintiffs or Other Plaintiffs to Appropriate Venues., cs. [Date Entered: 08/20/04, By: dh]
08/20/2004	--	No	Received Proposed Consent Protective Order. [Date Entered: 08/20/04, By: dh]
08/20/2004	--	No	Original Consent Protective Order to USMJ Daniel for consideration. [Date Entered: 08/20/04, By: dh]
08/20/2004	53	<u>Yes: 3 Page(s); 93</u> <u>KB; PDF</u>	Consent Protective Order as to certain information re: potential class members. ccys served. signed by David W. Daniel, USMJ. [Date Entered: 08/20/04, By: dh]

08/20/2004	54	<u>Yes: 1 Page(s); 18 KB; PDF</u>	Order granting [51-1] motion to extend time to file response to def't's m/reconsideration, Response to motion reset to 9/7/04 for [50-1] motion for reconsideration of [47-1] order signed by Michael D. Brooks, Acting Clk..ccys served. [Date Entered: 08/20/04, By: dh]
08/20/2004	55	<u>Yes: 15 Page(s); 595 KB; PDF</u>	Document filed by defendants titled: Defendants' Response to Plaintiff's Proposed Class Notice, cs. w/attachments. [Date Entered: 08/25/04, By: dh]
08/30/2004	56	<u>Yes: 3 Page(s); 62 KB; PDF</u>	Reply to response to [48-1] motion to Transfer Virginia Plaintiffs or Other Plaintiffs to Appropriate Venues., cs. [Date Entered: 09/10/04, By: dh]
09/01/2004	--	No	Case submitted to: Judge Howard per request. [Date Entered: 09/01/04, By: dh]
09/07/2004	57	<u>Yes: 14 Page(s); 492 KB; PDF</u>	Response by pla's to [50-1] motion for reconsideration of [47-1] order-cs- w/attachments [Date Entered: 09/13/04, By: sf]
09/16/2004	58	<u>Yes: 1 Page(s); 31 KB; PDF</u>	Order - The plaintiffs have presented to this court a proposed Notice to Class Member pursuant to Rule 23 of the Fed. R. Civ. P. Accordingly, the Notice to Class Members is hereby approved. Class counsel are hereby Ordered to send the Class Notice to each member of the Class as soon as possible. ccys served 9/16/04 signed by Malcolm J. Howard, US Judge. [Date Entered: 09/17/04, By: dh]
09/17/2004	59	<u>Yes: 5 Page(s); 150 KB; PDF</u>	Reply by Ross J. Davidson, Risk Manage. Agency, USA, Ann M. Veneman, U.S. Dept. of Agric. to response to [50-1] motion for reconsideration of [47-1] order.- cs [Date Entered: 10/01/04, By: sf]
10/01/2004	--	No	Motion(s) submitted: [50-1] motion for reconsideration of [47-1] order submitted. Case file to Judge Howard for consideration. [Date Entered: 10/01/04, By: sf]
10/12/2004	--	No	Motion(s) submitted: [48-1] motion to Transfer Virginia Plaintiffs or Other Plaintiffs to Appropriate Venues. COPY OF UPDATED DOCKET SHEET TO JUDGE HOWARD. [Date Entered: 10/12/04, By: sf]
11/09/2004	60	<u>Yes: 4 Page(s); 80 KB; PDF</u>	Motion for class certification and summary judgment for pla. peanut farmers in other states, cs. [Date Entered: 01/05/05, By: dh]
11/09/2004	61	<u>Yes: 11 Page(s); 390 KB; PDF</u>	Memorandum by plaintiffs in support of [60-1] motion for class certification and summary judgment for pla. peanut farmers in other states, cs [Date Entered: 01/05/05, By: dh]

11/22/2004	62	<u>Yes: 3 Page(s); 58 KB; PDF</u>	Motion for setting of formula for calculation of damages and establishment of common fund for all class members, cs. [Date Entered: 01/05/05, By: dh]
11/22/2004	63	<u>Yes: 25 Page(s); 922 KB; PDF</u>	Memorandum in support of [62-1] motion for setting of formula for calculation of damages and establishment of common fund for all class members, cs. [Date Entered: 01/05/05, By: dh]
11/29/2004	64	<u>Yes: 4 Page(s); 134 KB; PDF</u>	Response by def't's in opposition to [60-1] motion for class certification and summary judgment for pla. peanut farmers in other states, cs. [Date Entered: 01/05/05, By: dh]
12/09/2004	65	<u>Yes: 4 Page(s); 91 KB; PDF</u>	Motion by plaintiffs for status conf. and hearing on pending pretrial issues, cs. [Date Entered: 01/05/05, By: dh]
12/15/2004	66	<u>Yes: 2 Page(s); 37 KB; PDF</u>	Motion by def't's for adoption of damages formula, cs. [Date Entered: 01/05/05, By: dh]
12/15/2004	67	No	Memorandum by def't's in support of [66-1] motion for adoption of damages formula, cs. [Date Entered: 01/05/05, By: dh]
12/15/2004	67	<u>Yes: 26 Page(s); 992 KB; PDF</u>	Response by def't's to [62-1] motion for setting of formula for calculation of damages and establishment of common fund for all class members, cs. [Date Entered: 01/05/05, By: dh]
12/22/2004	68	<u>Yes: 3 Page(s); 60 KB; PDF</u>	Motion to extend time to respond to def't's memorandum in support of def't's motion for adoption of damages...., cs. cy to Clerk w/p.o. [Date Entered: 01/05/05, By: dh]
12/30/2004	69	<u>Yes: 1 Page(s); 26 KB; PDF</u>	Order granting [68-1] motion to extend time to respond to def't's memorandum in support of def't's motion for adoption of damages....to and including ten (10) days from the date of service. signed by Michael D. Brooks, Acting Clk.. ccyserved 12/30/04. [Date Entered: 01/05/05, By: dh]
01/06/2005	--	No	Motion(s) submitted: [66-1] motion for adoption of damages formula submitted, [65-1] motion for status conf. and hearing on pending pretrial issues submitted, [62-1] motion for setting of formula for calculation of damages and establishment of common fund for all class members submitted, [60-1] motion for class certification and summary judgment for pla. peanut farmers in other states submitted. UPDATED DOCKET SHEET TO JUDGE HOWARD FOR CONSIDERATION. [Date Entered: 01/06/05, By: dh]
01/10/2005	70	<u>Yes: 38 Page(s); 5636 KB; PDF</u>	Reply to response to [62-1] motion for setting of formula for calculation of damages and establishment of common fund for all class members, cs. cy to Judge Howard. [Date

			Entered: 01/26/05, By: dh]
01/26/2005	71	<u>Yes: 1 Page(s); 22 KB; PDF</u>	Order denying [50-1] motion for reconsideration of [47-1] order signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 01/26/05, By: dh]
01/31/2005	72	<u>Yes: 13 Page(s); 476 KB; PDF</u>	Deft's Reply to response to [66-1] motion for adoption of damages formula, cs. [Date Entered: 02/08/05, By: dh]
09/22/2005	73	<u>Yes: 1 Page(s); 32 KB; PDF</u>	Order denying [48-1] motion to Transfer Virginia Plaintiffs or Other Plaintiffs to Appropriate Venues. The court finds no basis for amending its July 22, 2004, order. signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 09/22/05, By: dh]

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Docket Sheet for 4:05-cv-8 USDC North Carolina Eastern District

U.S. District Court
Eastern District of North Carolina (New Bern)

CIVIL DOCKET FOR CASE #: 05-CV-8

In re: Peanut Crop I v. Davidson
Assigned to: Judge Malcolm J. Howard
Demand: \$0,000
Lead Docket: None
Dkt# in other court: None

Filed: 11/09/04

Nature of Suit: 190
Jurisdiction: US Defendant

Cause: 07:499 Agricultural Commodities Act

IN RE: PEANUT CROP INSURANCE
LITIGATION, MDL-1634
plaintiff

R. Daniel Boyce
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FTS 324-3636

v.

ROSS J. DAVIDSON,

Eric D. Goulian

EXHIBIT

tabbles

2

Administrator for Risk
Management Agency
defendant

[COR LD NTC]
U.S. Attorney's Office
Winnie.Reaves@usdoj.gov
310 New Bern Ave.

Suite 800
Raleigh, NC 27601-1461
919-856-4530
FTS 856-4821

IN RE: PEANUT CROP INSURANCE LITIGATION, MDL-1634

plaintiff

v.

ROSS J. DAVIDSON, Administrator for Risk Management Agency

defendant

Proceedings include all events

Date Filed	Doc. No.	Image	Description
11/09/2004	1	No	Transfer Order - re: MDL 1634. signed by William Terrell Hodges, Chairman. [Date Entered: 01/20/05, By: dh]
11/09/2004	--	No	Reference must be made to the individual docket sheet for entries relating only to individual actions. [Date Entered: 01/20/05, By: dh]
01/21/2005	2	<u>Yes: 5 Page(s); 126 KB; PDF</u>	Order - (ALL CASES) Practice and Procedure Order Number One Upon Transfer - (see order for details) signed by Malcolm J. Howard, US Judge. ccys served to Mr. Boyce, Mr. Gouliau and Mr. Hollis. [Date Entered: 01/21/05, By: dh]
01/21/2005	3	<u>Yes: 1 Page(s); 25 KB; PDF</u>	Order Scheduling Hearing - (ALL CASES) Motion hearing before Judge Malcolm J. Howard scheduled for Thursday, February 17, 2005 at 10:00 a.m. in G'ville signed by Malcolm J. Howard, US Judge. ccys to Mr. Boyce, Mr. Gouliau and Mr. Hollis. Cy to Becky Bowen for Court Reporter. Calendar Copy. [Date Entered: 01/21/05, By: dh]
01/26/2005	--	No	Clerk's Office Received Second Consent Protective Order from counsel. Original forwarded to Judge Howard's Chamber. [Date Entered: 01/26/05, By: dh]
01/27/2005	4	<u>Yes: 3 Page(s); 107 KB; PDF</u>	Second Consent Protective Order - (Individual Cases: 4:04-CV-186-H2;187-H2;188-H2;189-H2;190-H2;191-H2) as to production of potential class members for the purpose of providing class notice...see order for complete details. signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 01/27/05, By: dh]
01/31/2005	5	<u>Yes: 2 Page(s); 47 KB; PDF</u>	Deft's Motion for adoption of damages formula in transferred cases. Filed in Case No's. 4:04-CV-186-H2; 187-H2; 188-H2; 189-H2; 190-H2 and 191-H2. cy to Judge Howard 2/2/05. [Date Entered: 02/08/05, By: dh]

01/31/2005	6	<u>Yes: 2 Page(s); 57 KB; PDF</u>	Deft's Motion to dismiss or alternatively for summary judgment in transferred cases, cs. Individual Case No's. 4:04-CV-186-H2; 187-H2; 188-H2; 189-H2; 190-h2 and 191-H2. cy to Judge Howard 2/2/05. [Date Entered: 02/08/05, By: dh]
02/15/2005	7	<u>Yes: 9 Page(s); 272 KB; PDF</u>	Notice of Filing by defendants of Declaration of David Clauser in support of their Motion for Adoption of Damages Formula - Individual Cases 4:04-CV-159-H2; 186-H2; 187-H2; 188-H2; 189-H2; 190-H2 and 191-H2, cs. w/attachments. [Date Entered: 02/17/05, By: dh]
02/17/2005	--	No	Motion hearing held in G'ville before Judge Malcolm J. Howard. Courtroom Deputy - Delsia Heath. Court Reporter - Edith Thompson. Plaintiff's Counsel - R. Daniel Boyce, Eugene Boyce & Paul Garrison, Alabama Attorney. Defendant's Counsel - Eric Goulian, AUSA, EDNC, Kent Porter, AUSA, EDVA, Don Brittenham, Atty. with USDA and Mark Simpson, Atty. with USDA. Court reviews history of case and pending motions. Court hears argument from counsel as to the issue of class certification and the issue of damages calculation formula and establishment of common fund. Plaintiff present evidence by sworn testimony. Court directs counsel to draft Proposed Orders as to the issue of Class Action and Formula and a draft of the Judgment. Proposed Orders to be forward to the Court by the first of March. Court sets Status Conference for Tuesday, March 15, 2005. Total Hearing Time 3 hrs. [Date Entered: 02/17/05, By: dh]
02/17/2005	8	<u>Yes: 4 Page(s); 103 KB; PDF</u>	(ALL CASES) Motion by plaintiff peanut farmers for discovery order compelling production of documents, cs. [Date Entered: 02/17/05, By: dh]
02/17/2005	9	<u>Yes: 12 Page(s); 378 KB; PDF</u>	(ALL CASES) Memorandum in support of [8-1] motion for discovery order compelling production of documents, cs. [Date Entered: 02/17/05, By: dh]
02/17/2005	10	<u>Yes: 9 Page(s); 240 KB; PDF</u>	Motion by Class Counsel on behalf of potential class members, with memorandum in support of for certification of national class action. Individual Cases 4:02-CV-159-H2; 186-H2; 187-H2; 188-H2, 189-H2, 190-H2 and 191-H2, cs. [Date Entered: 02/17/05, By: dh]
02/23/2005	--	No	Issued Notice of Hearing: setting status conference before Judge Malcolm J. Howard for 10:00 3/15/05 in G'ville. cys served. Copy to Becky for Court Reporter. [Date Entered: 02/23/05, By: dh]
			Amended Certificate of service by In re: Peanut Crop Ins Litigation - re: Motion for Certification of Nationa Class

02/23/2005	11	Yes: 2 Page(s); 46 KB; PDF	Action (and Incorporated Memo. of Law) - Individual Cases 4:02-CV-159-H2; 4:04-186; 4:04-187; 4:04-188; 4:04-189; 4:04-190 and 4:04-191. [Date Entered: 02/24/05, By: dh]
02/25/2005	12	Yes: 3 Page(s); 62 KB; PDF	Document filed by plaintiff titled: (ALL CASES) Memorandum of Additional Points and Authorities, cs. cy to Judge Howard. [Date Entered: 03/01/05, By: dh]
03/01/2005	13	No	Notice of Filing by Ross J. Davidson - (ALL CASES) of Proposed Order. [Date Entered: 03/03/05, By: dh]
03/01/2005	--	No	Letter date 3/1/05 From: Dan Boyce Re: Proposed Final Judgment [Date Entered: 03/03/05, By: dh]
03/03/2005	14	Yes: 6 Page(s); 115 KB; PDF	(ALL CASES) Response in opposition by Ross J. Davidson to [8-1] motion for discovery order compelling production of documents, cs. [Date Entered: 03/11/05, By: dh]
03/04/2005	15	Yes: 3 Page(s); 59 KB; PDF	(ALL CASES) Motion by plaintiff to file amended memor. in support of motion for certification of Nat'l. Class Action, cs. [Date Entered: 03/11/05, By: dh]
03/04/2005	16	Yes: 14 Page(s); 450 KB; PDF	(ALL CASES) Amended Memorandum in support of [15-1] motion to file amended memor. in support of motion for certification of Nat'l. Class Action, cs. cy to Judge Howard. [Date Entered: 03/11/05, By: dh]
03/07/2005	--	No	Transcript Filed - regarding motion hearing on 2/17/05 before Judge Malcolm J. Howard in G'ville - Court Reporter - Edith Thompson [Date Entered: 03/11/05, By: dh]
03/09/2005	17	Yes: 5 Page(s); 105 KB; PDF	(ALL CASES) Notice of Filing by Ross J. Davidson of Exhibit 3 to declaration of David Clauser. cy to Judge Howard. [Date Entered: 03/11/05, By: dh]
03/09/2005	18	Yes: 2 Page(s); 47 KB; PDF	(ALL CASES) Motion by Ross J. Davidson to re-schedule status conf., cs. cy to Judge Howard. [Date Entered: 03/11/05, By: dh]
03/09/2005	19	Yes: 1 Page(s); 22 KB; PDF	(ALL CASES) Order granting [18-1] motion to re-schedule status conf., reset status conference before Judge Malcolm J. Howard for 3/18/05 in jury room in G'ville signed by Malcolm J. Howard, US Judge. ccys served. Calendar Copy. [Date Entered: 03/11/05, By: dh]
03/23/2005	--	No	Motion(s) submitted: [15-1] motion to file amended memor. in support of motion for certification of Nat'l. Class Action submitted, [10-1] motion for certification of national class action submitted, [8-1] motion for discovery order compelling production of documents submitted, [6-1] motion to dismiss submitted, [5-1] motion for adoption of

			damages formula in transferred cases submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. [Date Entered: 03/23/05, By: dh]
03/24/2005	20	<u>Yes: 8 Page(s); 308 KB; PDF</u>	(ALL CASES) Response by Ross J. Davidson in opposition to [10-1] motion for certification of national class action, cs. Copy to Judge Howard. [Date Entered: 03/30/05, By: dh]
03/25/2005	21	No	(ALL CASES) Motion by In re: Peanut Crop Ins. for class certification and summary judgment for pla. peanut farmers in other states, cs. Copy to Judge Howard. [Date Entered: 03/30/05, By: dh]
03/25/2005	21	<u>Yes: 3 Page(s); 67 KB; PDF</u>	(ALL CASES) Motion by In re: Peanut Crop I for summary judgment and motion for setting of formula for calculation of damages and establishment of common fund for all class members in transferred cases, cs. Copy to Judge Howard. [Date Entered: 03/30/05, By: dh]
03/25/2005	22	<u>Yes: 3 Page(s); 43 KB; PDF</u>	(ALL CASES) Notice of Filing by In re: Peanut Crop Ins. of exhibits introduced at the Status Hearing on March 18, 2005, w/attached exhibits, cs. Copy to Judge Howard. [Date Entered: 03/30/05, By: dh]
03/31/2005	23	<u>Yes: 5 Page(s); 140 KB; PDF</u>	(ALL CASES) Order granting plaintiff's [21-1] motion for class certification and summary judgment for pla. peanut farmers in other states, denying defendant's [6-1] motion to dismiss. Deft's motion for reconsideration is also denied. Pla's motion for class certification is granted and class counsel and class representatives were appointed as stated in this order (see order for details.) Class counsel shall send class notice to all potential class members as soon as practicable as required by Federal Rule of Civil Procedure 23. signed by Malcolm J. Howard, USJudge. ccys served. [Date Entered: 03/31/05, By: dh]
03/31/2005	24	<u>Yes: 8 Page(s); 239 KB; PDF</u>	Order granting in part, denying in part [21-1] motion for setting of formula for calculation of damages and establishment of common fund for all class members in transferred cases, granting in part, denying in part [5-1] motion for adoption of damages formula in transferred cases. The formula as established in this order shall be used in calculating the total damages due to each individual class member (see order for details.) signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 03/31/05, By: dh]
04/08/2005	25	<u>Yes: 3 Page(s); 52 KB; PDF</u>	(ALL CASES) Motion by In re: Peanut Crop I to extend time to file reply brief, cs. cy to Judge Howard. [Date Entered: 04/08/05, By: dh]
			(ALL CASES) Order granting [25-1] motion to extend time

04/08/2005	26	<u>Yes: 1 Page(s); 18 KB; PDF</u>	to file reply brief to deflt's opposition to pla's motion for certification of national class action. Reply to Response to Motion reset to 4/20/05 for [10-1] motion for certification of national class action signed by Malcolm J. Howard, US Judge. ccys served. [Date Entered: 04/08/05, By: dh]
04/20/2005	27	No	(ALL CASES) Reply by In re: Peanut Crop to response to [10-1] motion for certification of national class action, cs. [Date Entered: 04/22/05, By: dh]
04/22/2005	--	No	Motion(s) submitted: [10-1] motion for certification of national class action submitted. CASE FILE TO JUDGE HOWARD FOR CONSIDERATION. [Date Entered: 04/22/05, By: dh]
05/03/2005	28	<u>Yes: 10 Page(s); 459 KB; PDF</u>	(ALL CASES) Order On Notice To Class Members - the Notice to Class Members is hereby approved. Class counsel are hereby Ordered to send the Class Notice to each member of the Class as soon as practicable. signed by Malcolm J.Howard, US Judge. ccys served. Individual Case Nos: 4:04-186; 4:04-187; 4:04-188; 4:04-189; 4:04-190; 4:04-191 & 4:05-2. [Date Entered: 05/03/05, By: dh]
09/06/2005	29	<u>Yes: 13 Page(s); 372 KB; PDF</u>	Motion by In re: Peanut Crop Insurance Litigation to begin class administration and request for status conference, cs. Copy to Judge Howard. [Date Entered: 09/13/05, By: dh]
09/06/2005	30	<u>Yes: 17 Page(s); 580 KB; PDF</u>	Renewed Motion by In re: Peanut Crop Insurance Litigation to certify this case as a national class action and supplemental memorandum of additional points and authorities, cs. Copy to Judge Howard. [Date Entered: 09/13/05, By: dh]

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JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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DOCKET NO. 1634
EASTERN-MARSHALL

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE PEANUT CROP INSURANCE LITIGATION 2:03cv120

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE
PANEL

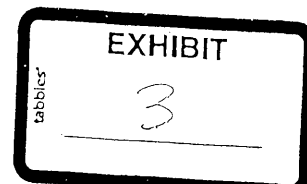
TRANSFER ORDER

This litigation currently consists of seven actions listed on the attached Schedule A and pending, respectively, in the Middle District of Alabama, the Northern District of Florida, the Middle District of Georgia, the Eastern District of North Carolina, the District of South Carolina, the Eastern District of Texas, and the Eastern District of Virginia.¹ Plaintiffs in the seven actions move the Panel, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation in the Eastern District of North Carolina. The defendants in the actions, who are the United States, two United States Government officials, and three United States departments or agencies, oppose transfer. If the Panel determines to order transfer over their objections, then these defendants suggest that the Eastern District of Virginia would be an appropriate transferee district.

On the basis of the papers filed and hearing session held, the Panel finds that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the Eastern District of North Carolina will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiff peanut farmers in each action allege that common defendants on or after May 13, 2002, unlawfully and unilaterally imposed modifications to the Multiple Peril Crop Insurance Policy for Year 2002, which changed the plaintiff farmers' insurance coverage by reducing it from \$.31 to \$1775 per pound of peanuts. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to jurisdictional and class certification matters), and conserve the resources of the parties, their counsel and the judiciary.

Objecting defendants have argued that Section 1407 transfer would circumvent the requirements of 7 U.S.C. § 1508 (j)(2)(a), which provides that actions on crop insurance claims may

¹The Section 1407 motion, as originally filed, also pertained to an additional action brought in the United States Court of Federal Claims. Movants subsequently withdrew this action from the list of actions encompassed by their motion in recognition of the fact that the action had been dismissed and was on appeal. Also, the Panel has been notified of one additional related action recently filed in the Middle District of Alabama. In light of the Panel's disposition of this docket, this action will be treated as a potential tag-along action. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).



- 2 -

be brought only in the district court for the district in which the insured farm is located. Opponents argue that because of this clear Congressional mandate that a federal court, in a particular district, possesses exclusive jurisdiction to entertain certain farmers' crop insurance claims, the Panel cannot or should not exercise its Section 1407 authority to transfer multiple such actions to a single district for coordinated or consolidated pretrial proceedings. We note, however, that in considering transfer under Section 1407, the Panel is not encumbered by considerations of venue. *In re Great Western Ranches Litigation*, 369 F.Supp. 1406, n.1 (J.P.M.L. 1974). An opposite conclusion would frustrate the essential purpose of Congress in enacting Section 1407 and providing for transfer of civil actions to "any district" by the Panel, namely, to permit centralization in one district of all pretrial proceedings when civil actions involving one or more common questions of fact are pending in different districts. *See In re Matter of New York City Municipal Securities Litigation*, 572 F.2d 49 (2nd Cir. 1978). We also note that any action transferred under Section 1407 for coordinated or consolidated pretrial proceedings that has not been terminated in the transferee district court will be remanded to its transferor district for trial. *See* Rule 7.6, R.P.J.P.M.L., 199 F.R.D. 425, 436-38 (2001).

In concluding that the Eastern District of North Carolina is an appropriate forum for this docket, we note that the proceedings are furthest advanced in that district, which is also well equipped with the resources that this docket is likely to require.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Eastern District of North Carolina are transferred to the Eastern District of North Carolina and, with the consent of that court, assigned to the Honorable Malcolm J. Howard for coordinated or consolidated pretrial proceedings with the action pending in that district and listed on Schedule A.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1634 -- In re Peanut Crop Insurance Litigation

Middle District of Alabama

MDAL

Terry E. Beasley, et al. v. Ross J. Davidson, et al., C.A. No. 1:03-500

Northern District of Florida

NDFL

Florida Peanut Farmers, et al. v. Ross J. Davidson, et al., C.A. No. 5:03-107

Middle District of Georgia

MDGA

Georgia Peanut Farmers, et al. v. Ross J. Davidson, et al., C.A. No. 1:03-175

Eastern District of North Carolina

EDNC

Marvin Taylor Barnhill, et al. v. Ross J. Davidson, et al., C.A. No. 4:02-159

District of South Carolina

SCD

Wallace A. Berry, et al. v. Ross J. Davidson, et al., C.A. No. 3:03-1631

Eastern District of Texas

EDTX

Texas Peanut Farmers, et al. v. Ross J. Davidson, et al., C.A. No. 2:03-120

Eastern District of Virginia

EDVA

Tom Clements, et al. v. Ross J. Davidson, et al., C.A. No. 2:03-352



U.S. Department of Justice

Civil Division

PK:DMC:JVanneman
154-03-445

Telephone: (202) 307-1011
Fax: (202) 514-8624

Washington, D.C. 20530

August 15, 2003

Mr. R. Daniel Boyce
Boyce & Isley
Post Office Box 1990
Raleigh, North Carolina 27602-1990

Re: Texas Peanut Farmers, et al. v. United States,
No. 03-445C (Fed. Cl.)

Dear Mr. Boyce:

This letter is to respond, on behalf of the United States Department of Justice, to your letter dated July 30, 2003. In your letter, you propose a dismissal of this action, subject to a variety of conditions. We cannot agree to your proposal, for the following reasons.^{1/}

Jurisdiction. As a threshold matter, there is a specific statutory provision that provides that jurisdiction to entertain these types of claims resides exclusively in the Federal district court in which the peanut farm is located. Given the sovereign immunity issues involved when a party sues the United States, the parties cannot stipulate to jurisdiction in a court in which jurisdiction does not properly lie. Therefore, it is not possible for all of the cases that you have filed on behalf of peanut farmers in various district courts to be adjudicated all in one district court, the Eastern District of North Carolina (the first case you filed).

^{1/} We are still researching various issues, so this letter is a preliminary response. We reserve the right to amend and/or supplement our response to your letter at a later date.

EXHIBIT

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The statute at issue that governs claims involving Federal crop insurance is 7 U.S.C. §1508(j)(2)(A).^{2/} See Williams Farms of Homestead, Inc. v. Rain and Hail Insurance Services, 121 F.3d 630 (11th Cir. 1997). This statute governs jurisdiction and cannot be waived. Therefore, we cannot enter into the type of "stipulation" that you propose.

As we establish in our motion to dismiss, the Court of Federal Claims lacks jurisdiction to entertain the suit. Each plaintiff must file his or her suit in the appropriate district court, that is, the court in which his or her farm(s) are located.^{3/}

In addition, even if the potentially dispositive issues (e.g., alleged breach of contract and violation of due process) are purely issues of law, all of the remaining issues would clearly be fact-bound (e.g., whether there was an insurable cause of loss, whether each individual farmer complied with all of the terms and conditions of the insurance policy). These and other factual issues (including potential damages issues) may depend

^{2/} In our motion to dismiss, we established that a plaintiff peanut farmer who holds Federal crop insurance must file in an appropriate district court. While we cited 7 U.S.C. §1506(d) (any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business), it is the section cited above, 7 U.S.C. §1508(j)(2)(A), that is more specific and governs here. The statute, 7 U.S.C. §1508(j)(2)(A), requires that a plaintiff, such as the ones you represent, who asserts a claim for indemnity, must file in the district court in which the insured farm is located.

^{3/} For a listing of district courts and their areas of jurisdiction, see 28 U.S.C. Chapter 5, §81 (Alabama), §89 (Florida), §90 (Georgia), §113 (North Carolina), §121 (South Carolina), §124 (Texas), §127 (Virginia).

In your letter, you also refer to 28 U.S.C. §1407, governing multidistrict litigation. If you are aware of any authority that would permit the type of transfer to one court, in suits involving the United States involving the types of jurisdictional issues raised in these cases, we would consider any such authority.

-3-

upon key dates and/or conditions in a particular state and/or peanut-growing region. As another example, there may be important factual differences among peanut-growing regions, states, and counties, and among the plaintiffs, that would affect the merits issues. Further, the opinion that you proffer as an expert opinion (Mr. Gary Bullen) in the North Carolina motion for partial summary judgment provided his opinions only with respect to peanut crop insurance in North Carolina and Virginia (with only tangential reference to South Carolina). Mr. Bullen's affidavit contains no information on any of the other peanut-growing regions at issue in the other cases (e.g., Georgia, Florida, Alabama, Texas).

In sum, it is too early in these sets of cases to reach any possible agreement on any global treatment of these cases. Accordingly, even if there were no jurisdictional or other bars to consolidation, we cannot agree at this time to your proposal to litigate all of the cases in one district court, given the potentially wide variety of factual scenarios among plaintiffs and peanut-growing regions and states.

Transfer. For the same reasons, we cannot stipulate to a transfer of all of the cases to the one case that you filed in the Eastern District of North Carolina. As we established above, the court in North Carolina lacks jurisdiction to entertain claims brought by plaintiffs whose farms are located in another state.

Indeed, for the same reasons, the court in North Carolina may lack jurisdiction to entertain the claim of any particular plaintiff named in that suit if the person's farm is located outside the boundaries of the Eastern District of North Carolina in which you filed. This applies not only to the plaintiffs whose farms are located in Virginia or South Carolina, but also to those whose farms may be located in the Middle or Western Districts of North Carolina.

As another example, only approximately twenty of the more than fifty plaintiffs named in the suit that you filed in the Eastern District of Texas have farms located in that district; other named plaintiffs have farms located in the other three districts for Federal district courts in Texas.

- 4 -

We are still in the process of reviewing all the named plaintiffs in each suit that you have filed in the several states. There may be other examples of these problems as well with respect to plaintiffs in the other states.

One trial court disposition, one circuit court of appeals. Similarly, because the district court in North Carolina would not possess jurisdiction to entertain the claims of farmers in other Circuits, we cannot agree to only one "trial court disposition," with an appeal to only one Circuit Court, as you suggest. (Further, we do not agree to trial by jury, one of your other conditions.)

Information requested. It is your burden to establish jurisdiction on behalf of each individually-named plaintiff for the court(s) in which you file. I have consulted with many of the Assistant United States Attorneys assigned to these cases and with agency counsel and we request that you provide the following information (some of which is not available to the Government). We request this information so that we may ascertain whether the named plaintiffs in each of the complaints that you have filed are individuals whose farms⁴ are located in the respective (appropriate) districts and so that we may also determine other

⁴ We recognize that it may be that an individual who owns a farm for which the farm property boundaries extend beyond more than one county line, or who owns more than one farm in more than one state (and/or more than one district within a state), may properly be named in more than one district court complaint. 7 U.S.C. §1508(j)(2)(A).

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facts relating to other issues that are potentially jurisdictional in nature (see discussion below):

1. name of plaintiff^{5/};
2. address of farm (include county);
3. address of residence (include county);
4. farm number (number assigned by the Farm Services Agency (FSA) and any other pertinent numbers associated with the crop insurance program;
5. name and address of plaintiff's insurance company;
6. whether the plaintiff filed a claim with his or her insurance company (and if so, the date), and if so;
 - a. whether the claim was allowed (and if so, the date), or
 - b. whether the claim was denied (and if so, the date);
 and,
7. whether the plaintiff filed any notice of appeal to the National Appeals Division (NAD), United States Department of Agriculture (and if so, the date).

I believe that the most prudent course would be to clarify and correct these jurisdictional and other matters before proceeding in any of the district courts on the merits or any other matters.

Other defenses. We also wish to make clear that, even though one or more of the plaintiffs may be named in the appropriate district court, the Government reserves the right to assert other defenses (which may or may not be jurisdictional in nature), and if we prevail, these defenses would result in a dismissal of that plaintiff's action. These potential defenses include: statute of limitations and/or other time-bars, and/or failure to exhaust administrative remedies.

^{5/} Please ensure the correct spelling of names. For example, for some of the plaintiffs in the complaint filed in the Court of Federal Claims and also in the Eastern District of Texas, the names are spelled differently.

You should also be aware that there is an inconsistency in your filings; for example, in the Texas complaint, some of the named plaintiffs are listed in the caption of the complaint but not listed in the text of the complaint, while some are in the text of the complaint but not listed in the style of the caption.

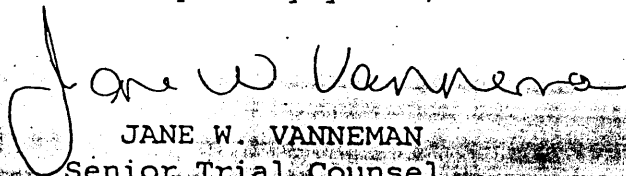
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In addition, there may be other reasons to support the denial of a plaintiff's claim (e.g., whether the plaintiff complied with all the terms and conditions of the insurance policy), which also might support dismissal of the action. Therefore, even if any of the individually-named plaintiffs are or will be in the correct district court, there may be other defenses (in addition to the merits) that would warrant dismissal of the plaintiff's action.

* * *

If you have any questions, please feel free to telephone me at (202) 307-1011 (or on my direct line if you are unable to reach me at the main number).

Very truly yours,



JANE W. VANNEMAN
Senior Trial Counsel
Commercial Litigation Branch
Civil Division

cc: Mr. Eric Goulian (AUSA, North Carolina)
Mr. Rand Neeley (AUSA, Alabama)
Ms. Pat Stout (AUSA, Georgia)
Ms. Ruth Yeager (AUSA, Texas)
Mr. Bryan Wilson (AUSA, Florida)
Ms. Terri Bailey (AUSA, South Carolina)
Mr. Kent Porter (AUSA, Virginia)
Ms. Kim Arrigo (USDA, OGC, Washington, D.C.)
Mr. Mark Simpson (USDA, OGC, Atlanta)

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November 5, 2004

(VIA FACSIMILE 856-4821
AND UNITED STATES MAIL)

Mr. Eric D. Goulian
Assistant U. S. Attorney
310 New Bern Avenue
Suite 800
Raleigh, North Carolina 27601-1461

Re: Barnhill *et al* v. Davidson, *et al*
No. 4:02-CV-159-H(4)

Dear Eric:

As you know, the Judicial Panel on Multidistrict Litigation has issued its Order transferring all cases to the Eastern District of North Carolina. I am requesting that the Court hold a status conference and hearing on the transfer and any other pending motions. Please advise what, if any, issues you would like to be discussed at the hearing, along with any proposed dates for the hearing. I will check with the Clerk's Office to see the next available hearing date that is mutually convenient. If you can give me several weeks in which you are available, I will try to find a mutually acceptable date. If I do not hear from you by November 11, 2004, I will assume that you do not wish to agree to any of the above information.

Also, please advise whether the Government is willing to furnish names of all potential class members in the other states. We received the Court's Order regarding notice to the class members in the Eastern District of North Carolina. We compared the list the Government provided with our internal list of clients and found that there were almost 100 clients who were not considered class members according to the Government's document that you submitted. Before requesting that the Court resolve this matter, it might be that there is some way to resolve this issue. It would be helpful if the Government can go ahead and voluntarily furnish the name of all potential class members in each of the states so we can be working on similar information. Please advise whether you will voluntarily provide this information (we will be happy to enter a similar stipulation or order regarding confidentiality.) If the Government is not willing to provide the information, we will have no recourse but to file a motion with the Court.

EXHIBIT

tabbies

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Mr. Eric Goulian
November 5, 2004
Page 2

Thank you for your prompt attention to these matters.

Sincerely yours,

BOYCE & ISLEY, PLLC

A handwritten signature in black ink, appearing to read "Dan", with a stylized, sweeping initial "D".

R. Daniel Boyce

/sj
Enclosure
[11/5/04 ltr e goul]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 4:02-CV-159-H(4)

MARVIN TAYLOR BARNHILL et al.,)
Plaintiffs,)
)
v.)
)
ROSS J. DAVIDSON, ADMINISTRATOR,)
RISK MANAGEMENT AGENCY, et al.)
Defendants.)

DEFENDANTS' RESPONSE TO
PLAINTIFFS' FIRST SET OF
INTERROGATORIES

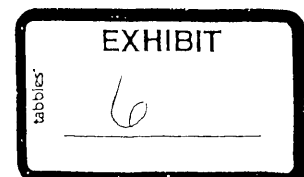
Pursuant to Rule 33(b) of the Federal Rules of Civil Procedure, defendants hereby
respond as follows to Plaintiffs' First Set of Interrogatories:

INTERROGATORY NO. 1: Provide the total amount of indemnity paid at \$.1775 per pound on
the 2002 Multiple Peril Crop Insurance (MPCI) contract for losses by peanut farmers in the
following states including each district in each state:

- a. Alabama: Middle District, Northern District, and Southern District;
- b. Florida: Middle District, Northern District, and Southern District;
- c. Georgia: Middle District, Northern District, and Southern District;
- d. North Carolina: Eastern District, Middle District, and Western District;
- e. South Carolina District Court;
- f. Texas: Eastern District, Northern District, Southern District and Western District
- g. Virginia: Eastern District and Western District.

INTERROGATORY NO. 2: Provide the total number of peanut farmers who had MPCI
coverage under the 2002 MPCI policy in the following states that were entitled to recover under
the 2002 MPCI policy for losses in the 2002 crop year (including each district in each state for
the following states):

- a. Alabama: Middle District, Northern District, and Southern District;
- b. Florida: Middle District, Northern District, and Southern District;
- c. Georgia: Middle District, Northern District, and Southern District;
- d. North Carolina: Eastern District, Middle District, and Western District;
- e. South Carolina District Court;
- f. Texas: Eastern District, Northern District, Southern District and Western District
- g. Virginia: Eastern District and Western District.



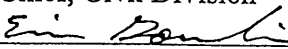
RESPONSE: Defendants object to Interrogatories Nos. 1 and 2 as overbroad in at least two respects. First, both interrogatories encompass losses by peanut farmers whose farms would not have been assigned quota even in the absence of the 2002 Farm Bill. Second, they encompass losses by peanut farmers in districts other than those in which parallel civil actions have been filed.

Without waiving the foregoing objections, Defendants have compiled a listing of all peanut farmers who were paid an indemnity in 2002 in each of the districts where parallel civil actions were filed, including the amount of the indemnity paid to each farmer. This listing will be provided to plaintiffs upon the Court's approval of the Second Consent Protective Order.

This the 17th day of December, 2004.

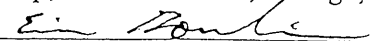
FRANK D. WHITNEY
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R. A. RENFER, JR.
Assistant United States Attorney
Chief, Civil Division


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Assistant United States Attorney
310 New Bern Avenue
Raleigh, North Carolina 27601-1461
Telephone: (919) 856-4356
Fax: (919) 856-4487
Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was mailed by first class mail on this 17th day of December, 2004 to R. Daniel Boyce, Esq., P.O. Box 1990, Raleigh, NC, 27602-1990.


Eric D. Goulian
Assistant United States Attorney

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

FILED
2/17/05
US DISTRICT COURT, EDNC

In Re: Peanut Crop Insurance
Litigation, MDL-1634

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Master Docket Case No.
4:05-CV-8-H2
(ALL CASES)

MOTION FOR DISCOVERY ORDER COMPELLING
PRODUCTION OF DOCUMENTS

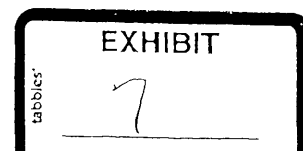
NOW COME Plaintiff Peanut Farmers ("Plaintiffs"), by and through the undersigned counsel, and move the Court to compel Defendants to produce previously requested documents pursuant to Rules 26, 34 and 37 of the Federal Rules of Civil Procedure and Local Rule 7.1 EDNC.

As grounds for this Motion, Plaintiffs show the Court as follows:

1. Plaintiffs have served one set of Interrogatories during the litigation of this case which included only two requests. Interrogatory No. 1 requested Defendants to provide the total amount of indemnity paid at \$.1775 per pound on the 2002 Multiple Peril Crop Insurance (MPCI) contract for losses by peanut farmers in the following states including each district in each state:

- a. Alabama: Middle District, Northern District, and Southern District;
 - b. Florida: Middle District, Northern District, and Southern District;
 - c. Georgia: Middle District, Northern District, and Southern District;
 - d. North Carolina: Eastern District, Middle District, and Western District;
 - e. South Carolina District Court;
 - f. Texas: Eastern District, Northern District, Southern District and Western District;
 - g. Virginia: Eastern District and Western District
2. Interrogatory No. 2 requested that Defendants provide the total number of

peanut farmers who had MPCI coverage under the 2002 MPCI policy in the following states that



were entitled to recover under the 2002 MPCCI policy for losses in the 2002 crop year (including each district in each state for the following states):

- a. Alabama: Middle District, Northern District, and Southern District;
- b. Florida: Middle District, Northern District, and Southern District;
- c. Georgia: Middle District, Northern District, and Southern District;
- d. North Carolina: Eastern District, Middle District, and Western District;
- e. South Carolina District Court;
- f. Texas: Eastern District, Northern District, Southern District and Western District;
- g. Virginia: Eastern District and Western District.

3. Defendants' response was as follows:

"Defendants object to Interrogatories Nos. 1 and 2 as overbroad in at least two respects. First, both interrogatories encompass losses by peanut farmers whose farms would not have been assigned quota even in the absence of the 2002 Farm Bill. Second, they encompass losses by peanut farmers in districts other than those in which parallel civil actions have been filed."

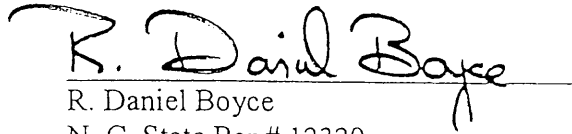
4. Class Counsel also request that the Court order similar information for all similarly situated Plaintiffs in all districts in each state.

5. In order to show a good faith effort in resolving disputes on discovery, undersigned counsel mailed a letter to AUSA Eric Goulian, as well as left a telephone message, asking if there was any way to resolve the differences. AUSA Goulian advised the Government stands by its previously stated position. He advised he would send a letter to that effect; but as of the date of this motion, the letter has not been received.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Honorable Court compel the Defendants to produce the previously requested information and documents as requested in Plaintiffs' First Set of Interrogatories as well as the same information for all districts in each state where similarly situated farmers resided and farmed in 2002 and suffered losses covered by the 2002 MPCCI contract.

Respectfully submitted, this the 17th day of January, 2005.

BOYCE & ISLEY, PLLC

A handwritten signature in black ink, reading "R. Daniel Boyce", written over a horizontal line.

R. Daniel Boyce

N. C. State Bar # 12329

Post Office Box 1990

Raleigh, North Carolina 27602-1990

Telephone: (919) 833-7373

Facsimile: (919) 833-7536

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on this day a copy of the foregoing *Motion for Discovery Order Compelling Production of Documents* was served upon counsel of record in this action by depositing a copy thereof in the United States mail, postage prepaid, and addressed as follows:

Eric Goulian
Assistant U. S. Attorney
Suite 800, Federal Building
310 New Bern Avenue
Raleigh, NC 27601-1464

This the 17th day of January, 2005.

A handwritten signature in black ink, reading "R. Daniel Boyce", written over a horizontal line.

R. Daniel Boyce
N. C. State Bar # 12329
Post Office Box 1990
Raleigh, North Carolina 27602-1990
Telephone: (919) 833-7373
Facsimile: (919) 833-7536